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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,672	02/21/2001	Makoto Oyanagi	Q62837	6037

7590 05/16/2006  
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC  
2100 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20037-3213

EXAMINER

THOMPSON, JAMES A

ART UNIT	PAPER NUMBER
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2625

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 09/788,672	<b>Applicant(s)</b> OYANAGI ET AL.	
	<b>Examiner</b> James A. Thompson	<b>Art Unit</b> 2625	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 08 May 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☒ Applicant's reply has overcome the following rejection(s): rejection of claims 23-38 under 35 USC §112, 2<sup>nd</sup> paragraph.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_  
 Claim(s) objected to: \_\_\_\_\_  
 Claim(s) rejected: 23-38.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. In view of the fact that the present amendments to the claims have been made to overcome the rejection of claims 23-38 under 35 USC §112, 2<sup>nd</sup> paragraph, set forth in items 2-3 of the previous office action mailed 07 March 2006, the present amendments to the claims are entered. Since the present amendments to the claims conform with Examiner's interpretation of the claims as recited immediately prior to said previous office action, the same prior art rejections apply to the presently recited claims.

### *Response to Arguments*

2. Applicant's arguments, see page 6, lines 13-16, filed 08 May 2006, with respect to the rejection of claims 23-38 under 35 USC §112, 2<sup>nd</sup> paragraph have been fully considered and are persuasive. The rejection of claims 23-38 under 35 USC §112, 2<sup>nd</sup> paragraph listed in items 2-3 of said previous office action has been withdrawn.

3. Applicant's arguments filed 08 May 2006 have been fully considered but they are not persuasive.

Regarding page 6, line 19 to page 9, line 2: Applicant's arguments in this section describe a general idea behind the present application, and do not substantively address the limitations of the presently recited claims. Furthermore, Applicant's description of Chen (USPN 5,684,934), namely that allegedly a unit at the upstream side is cleared when an error occurs in a unit at the downstream side, ignores not only the

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limitations present in the recited claims, but also ignores the combination that has clearly been set forth in said previous office action. Examiner appreciates that Chen, and even perhaps Chen in view of Sakurai (USPN 5,924,802), may not be precisely the same as the invention disclosed in the specification. However, it is the presently recited claims that are the issue at hand, and not Applicant's personal summary of the present application. The full and complete recitation of claims 23 and 31 are fully taught by Chen in view of Sakurai, as clearly set forth on pages 3-4 of said previous office action.

**Regarding page 9, line 3 to page 10, line 10:** Claims 23 and 31, as actually recited, have been demonstrated to be fully and completely taught by Chen and Sakurai, as set forth in said previous office action and as explained above. The dependent claims are therefore not allowable merely due to their dependence from either claim 23 or claim 31. All of the prior art rejections set forth in said previous office action are maintained.


#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Thompson whose telephone number is 571-272-7441. The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on 571-272-7437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

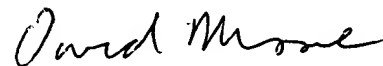
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



11 May 2006

James A. Thompson  
Examiner  
Technology Division 2625



**DAVID MOORE**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**